



February 28, 2003

HOUSE BILL No. 1232

DIGEST OF HB 1232 (Updated February 26, 2003 5:58 PM - DI 107)

Citations Affected: IC 9-30; IC 31-37.

Synopsis: Driver's licenses and suspensions. Provides that if a person has been convicted twice in a five year period of operating a vehicle or a motorboat while intoxicated and if the court grants probationary driving privileges, the person must use an ignition interlock device (device). Makes it a Class B infraction if a person fails to equip each vehicle owned or leased by the person with a device within ten days after an order by the court. Makes it a class B misdemeanor if a person tampers with a device under certain circumstances.

Effective: July 1, 2003.

Duncan

January 8, 2003, read first time and referred to Committee on Judiciary.
February 27, 2003, amended, reported — Do Pass.

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HB 1232—LS 6206/DI 96+



February 28, 2003

First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1232

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 9-30-5-7 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) A person who violates a court
3 order issued under section 16 of this chapter commits a Class A
4 misdemeanor.
5 (b) Except as provided in subsection (c), a person who knowingly
6 assists another person who is restricted to the use of an ignition
7 interlock device to violate a court order issued under this chapter
8 commits a Class A misdemeanor.
9 (c) Subsection (b) does not apply if the starting of a motor vehicle,
10 or the request to start a motor vehicle, equipped with an ignition
11 interlock device:
12 (1) is done for the purpose of safety or mechanical repair of the
13 device or the vehicle; and
14 (2) the restricted person does not operate the vehicle.
15 (d) A person who, except in an emergency, knowingly rents, leases,
16 or loans a motor vehicle that is not equipped with a functioning ignition
17 interlock device to a person who is restricted under a court order to the

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1 use of a vehicle with an ignition interlock device commits a Class A
2 infraction.

3 (e) A person who is subject to an ignition interlock device
4 restriction and drives another vehicle in an emergency situation must
5 notify the court of the emergency within twenty-four (24) hours.

6 **(f) A person who fails to equip each vehicle owned or leased by**
7 **the person with a functioning certified ignition interlock device**
8 **within ten (10) days after the court enters an order under section**
9 **10(d) or 10(e) of this chapter commits a Class B infraction.**

10 SECTION 2. IC 9-30-5-8 IS AMENDED TO READ AS FOLLOWS
11 [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) A person who tampers with
12 an ignition interlock device for the purpose of:

13 (1) circumventing the ignition interlock device; or

14 (2) rendering the ignition interlock device inaccurate or
15 inoperative;

16 commits a Class B ~~infraction~~: **misdemeanor**.

17 (b) A person who solicits another person to:

18 (1) blow into an ignition interlock device; or

19 (2) start a motor vehicle equipped with an ignition interlock
20 device;

21 for the purpose of providing an operable vehicle to a person who is
22 restricted to driving a vehicle with the ignition interlock device
23 commits a Class C infraction.

24 SECTION 3. IC 9-30-5-10 IS AMENDED TO READ AS
25 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) In addition to a
26 criminal penalty imposed for an offense under this chapter or
27 IC 14-15-8, the court shall, after reviewing the person's bureau driving
28 record and other relevant evidence, recommend the suspension of the
29 person's driving privileges for the fixed period of time specified under
30 this section.

31 (b) If the court finds that the person:

32 (1) does not have a previous conviction of operating a vehicle or
33 a motorboat while intoxicated; or

34 (2) has a previous conviction of operating a vehicle or a
35 motorboat while intoxicated that occurred at least ten (10) years
36 before the conviction under consideration by the court;

37 the court shall recommend the suspension of the person's driving
38 privileges for at least ninety (90) days but not more than two (2) years.

39 (c) If the court finds that the person has a previous conviction of
40 operating a vehicle or a motorboat while intoxicated and the previous
41 conviction occurred more than five (5) years but less than ten (10)
42 years before the conviction under consideration by the court, the court

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1 shall recommend the suspension of the person's driving privileges for
 2 at least one hundred eighty (180) days but not more than two (2) years.
 3 The court may stay the execution of that part of the suspension that
 4 exceeds the minimum period of suspension and grant the person
 5 probationary driving privileges for a period of time equal to the length
 6 of the stay. If the court grants probationary driving privileges under this
 7 subsection, the court may order that the probationary driving privileges
 8 include the requirement that the person may not operate a motor
 9 vehicle unless the motor vehicle is equipped with a functioning
 10 certified ignition interlock device under IC 9-30-8.

11 (d) If the court finds that the person has a previous conviction of
 12 operating a vehicle or a motorboat while intoxicated and the previous
 13 conviction occurred less than five (5) years before the conviction under
 14 consideration by the court, the court shall recommend the suspension
 15 of the person's driving privileges for at least one (1) year but not more
 16 than two (2) years. The court may stay the execution of that part of the
 17 suspension that exceeds the minimum period of suspension and grant
 18 the person probationary driving privileges for a period of time equal to
 19 the length of the stay. If the court grants probationary driving privileges
 20 under this subsection, the court ~~may~~ **shall** order that the probationary
 21 driving privileges include the requirement that the person may not
 22 operate a motor vehicle unless the motor vehicle is equipped with a
 23 functioning certified ignition interlock device under IC 9-30-8.

24 (e) If the conviction under consideration by the court is for an
 25 offense under:

- 26 (1) section 4 of this chapter;
- 27 (2) section 5 of this chapter;
- 28 (3) IC 14-15-8-8(b); or
- 29 (4) IC 14-15-8-8(c);

30 the court shall recommend the suspension of the person's driving
 31 privileges for at least two (2) years but not more than five (5) years.

32 (f) If the conviction under consideration by the court is for an
 33 offense involving the use of a controlled substance listed in schedule
 34 I, II, III, IV, or V of IC 35-48-2, the court shall recommend the
 35 suspension or revocation of the person's driving privileges for at least
 36 six (6) months.

37 SECTION 4. IC 9-30-5-11 IS AMENDED TO READ AS
 38 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) If a court grants
 39 a person probationary driving privileges under ~~section 12~~ of this
 40 chapter, the person may operate a vehicle only as follows:

- 41 (1) To and from the person's place of employment.
- 42 (2) For specific purposes in exceptional circumstances.



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(3) To and from a court-ordered treatment program.

(b) If the court grants the person probationary driving privileges under ~~section 12(a)~~ **section 10(c)** of this chapter, that part of the court's order granting probationary driving privileges does not take effect until the person's driving privileges have been suspended for at least thirty (30) days under IC 9-30-6-9.

(c) The court shall notify a person who is granted probationary driving privileges of the following:

(1) That the probationary driving period commences when the bureau issues the probationary license.

(2) That the bureau may not issue a probationary license until the bureau receives a reinstatement fee from the person and the person otherwise qualifies for a license.

SECTION 5. IC 9-30-5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. ~~(a) If:~~

~~(1) a court recommends suspension of a person's driving privileges under section 10(b) of this chapter for an offense committed under this chapter; and~~

~~(2) the person did not refuse to submit to a chemical test offered under IC 9-30-6-2 during the investigation of the offense;~~

~~the court may stay the execution of the suspension of the person's driving privileges and grant the person probationary driving privileges for one hundred eighty (180) days.~~

~~(b) An order~~ **(a) All orders** for probationary privileges must be issued in accordance with sections 11 and 13 of this chapter.

~~(c) (b) If:~~

(1) a court recommends suspension of a person's driving privileges under section ~~10(c)~~, 10(d), ~~or~~ 10(e), **or 10(f)** of this chapter for an offense committed under this chapter; and

(2) the period of suspension recommended by the court exceeds the minimum permissible fixed period of suspension specified under section 10 of this chapter;

the court may stay the execution of that part of the suspension that exceeds the minimum fixed period of suspension and grant the person probationary driving privileges for a period of time equal to the length of the stay.

~~(d) (c)~~ **(c)** In addition to the other requirements of this section, if a person's driving privileges are suspended or revoked under ~~section 10(f)~~ **section 10(g)** of this chapter, a court must find that compelling circumstances warrant the issuance of probationary driving privileges.

~~(e) (d)~~ **(d)** Before a court may grant probationary driving privileges under this section, the person to whom the probationary driving

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privileges will be granted must meet the burden of proving eligibility to receive probationary driving privileges.

SECTION 6. IC 9-30-5-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. (a) An order for probationary driving privileges granted under ~~section 12~~ of this chapter must include the following:

- (1) A requirement that the person may not violate a traffic law.
- (2) A restriction of a person's driving privileges providing for automatic execution of the suspension of driving privileges if an order is issued under subsection (b).
- (3) A written finding by the court that the court has reviewed the person's driving record and other relevant evidence and found that the person qualifies for a probationary license under ~~section 12~~ of this chapter.
- (4) Other reasonable terms of probation.

(b) If the court finds that the person has violated the terms of the order granting probationary driving privileges, the court shall order execution of that part of the sentence concerning the suspension of the person's driving privileges.

SECTION 7. IC 9-30-5-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. (a) Except as provided in subsection (b), the court may, in granting probationary driving privileges under this chapter, also order that the probationary driving privileges include the requirement that a person may not operate a motor vehicle unless the vehicle is equipped with a functioning certified ignition interlock device under IC 9-30-8.

(b) The court shall order that a person convicted under section 3 of this chapter may not operate a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device.

(c) A court may not order the installation of an ignition interlock device on a vehicle operated by an employee to whom any of the following apply:

- (1) Has been convicted of violating ~~IC 9-30-5-1 or IC 9-30-5-2~~ **section 1 or 2 of this chapter.**
- (2) Is employed as the operator of a vehicle owned, leased, or provided by the employee's employer.
- (3) Is subject to a labor agreement that prohibits an employee who is convicted of an alcohol related offense from operating the employer's vehicle.

SECTION 8. IC 9-30-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. If a court orders the installation

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of a certified ignition interlock device under:

(1) **IC 9-30-5-10 on a motor vehicle that a person whose license is suspended; or**

(2) IC 9-30-5-16 on a motor vehicle that a person whose license is restricted;

owns, **leases**, or expects to operate, the court shall set the time that the installation must remain in effect. However, the term may not exceed the maximum term of imprisonment the court could have imposed. The person shall pay the cost of installation.

SECTION 9. IC 31-37-5-7, AS ADDED BY P.L.32-2000, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) If a child is alleged to have committed an act that would be an offense under IC 9-30-5 if committed by an adult, a juvenile court shall recommend the immediate suspension of the child's driving privileges as provided in IC 9-30-5. If a court recommends suspension of a child's driving privileges under this section, the bureau of motor vehicles shall comply with the recommendation of suspension as provided in IC 9-30-6-12.

(b) If a court recommends suspension of a child's driving privileges under this section, the court may order the bureau of motor vehicles to reinstate the child's driving privileges as provided in IC 9-30-6-11.

(c) If a juvenile court orders the bureau of motor vehicles to reinstate a child's driving privileges under subsection (b), the bureau shall comply with the order. Unless the order for reinstatement is issued as provided under IC 9-30-6-11(a)(2) because of a violation of the speedy trial provisions applicable to the juvenile court, the bureau shall also do the following:

(1) Remove any record of the suspension from the bureau's record keeping system.

(2) Reinstate the privileges without cost to the person.

(d) If a juvenile court orders a suspension under this section and the child did not refuse to submit to a chemical test offered under IC 9-30-6-2 during the investigation of the delinquent act that would have been an offense under IC 9-30-5 if committed by an adult, the juvenile court may grant the child probationary driving privileges for one hundred eighty (180) days in conformity with the procedures in ~~IC 9-30-5-12~~. **IC 9-30-5-10(c)**. The standards and procedures in IC 9-30-5-11 and IC 9-30-5-13 apply to an action under this subsection.

(e) If a proceeding described in this section is terminated in favor of the child and the child did not refuse to submit to a chemical test offered as provided under IC 9-30-6-2 during the investigation of the delinquent act that would be an offense under IC 9-30-5 if committed

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by an adult, the bureau shall remove any record of the suspension, including the reasons for the suspension, from the child's official driving record.

(f) The bureau of motor vehicles may adopt rules under IC 4-22-2 to carry out this section.

SECTION 10. IC 31-37-19-17.3, AS ADDED BY P.L.32-2000, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17.3. (a) This section applies if a child is a delinquent child under IC 31-37-1 due to the commission of a delinquent act that, if committed by an adult, would be an offense under IC 9-30-5.

(b) The juvenile court shall, in addition to any other order or decree the court makes under this chapter, recommend the suspension of the child's driving privileges as provided in IC 9-30-5. If a court recommends suspension of a child's driving privileges under this section, the bureau of motor vehicles shall comply with the recommendation of suspension as provided in IC 9-30-6-12.

(c) If a court recommends suspension of a child's driving privileges under this section, the court may order the bureau of motor vehicles to reinstate the child's driving privileges as provided in IC 9-30-6-11.

(d) If a juvenile court orders the bureau of motor vehicles to reinstate a child's driving privileges under subsection (c), the bureau shall comply with the order. Unless the order for reinstatement is issued as provided under IC 9-30-6-11(a)(2) because of a violation of the speedy trial provisions applicable to the juvenile court, the bureau shall also do the following:

(1) Remove any record of the suspension from the bureau's record keeping system.

(2) Reinstate the privileges without cost to the person.

(e) If:

(1) a juvenile court recommends suspension of a child's driving privileges under this section; and

(2) the child did not refuse to submit to a chemical test offered as provided under IC 9-30-6-2 during the investigation of the delinquent act that would be an offense under IC 9-30-5 if committed by an adult;

the juvenile court may stay the execution of the suspension of the child's driving privileges and grant the child probationary driving privileges for one hundred eighty (180) days.

(f) If a juvenile court orders a suspension under this section and the child did not refuse to submit to a chemical test offered under IC 9-30-6-2 during the investigation of the delinquent act that would

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1 have been an offense under IC 9-30-5 if committed by an adult, the
 2 juvenile court may grant the child probationary driving privileges for
 3 one hundred eighty (180) days in conformity with the procedures in
 4 ~~IC 9-30-5-12~~. **IC 9-30-5-10(c)**. The standards and procedures in
 5 IC 9-30-5-11 and IC 9-30-5-13 apply to an action under this subsection.

6 (g) A child whose driving privileges are suspended under this
 7 section is entitled to credit for any days during which the license was
 8 suspended under IC 31-37-5-7 if the child did not refuse to submit to
 9 a chemical test offered as provided under IC 9-30-6-2 during the
 10 investigation of the delinquent act that would be an offense under
 11 IC 9-30-5 if committed by an adult.

12 (h) A period of suspension of driving privileges imposed under this
 13 section must be consecutive to any period of suspension imposed under
 14 IC 31-37-5-7. However, if the juvenile court finds in the sentencing
 15 order that it is in the best interest of society, the juvenile court may
 16 terminate all or any part of the remaining suspension under
 17 IC 31-37-5-7.

18 (i) The bureau of motor vehicles may adopt rules under IC 4-22-2
 19 to carry out this section.

20 SECTION 11. IC 31-37-19-17.4 IS ADDED TO THE INDIANA
 21 CODE AS A NEW SECTION TO READ AS FOLLOWS
 22 [EFFECTIVE JULY 1, 2003]: **Sec. 17.4. (a) This section applies if a**
 23 **child is adjudicated a delinquent child because the child committed**
 24 **an act that, if committed by an adult, would be a crime under**
 25 **IC 9-24-18-4(b) (permitting a motor vehicle to be driven by**
 26 **another person whose driver's license is suspended).**

27 (b) The juvenile court shall, in addition to any other order or
 28 decree the court makes under this chapter, order the bureau of
 29 motor vehicles to:

30 (1) suspend the child's operator's license; or

31 (2) invalidate the child's learner's permit;

32 under IC 9-24-18-4.5 in the same manner as the bureau of motor
 33 vehicles is required to suspend the driving privileges of a person
 34 convicted of permitting a motor vehicle to be driven by another
 35 person whose driver's license is suspended.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1232, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17.

Delete page 2.

Page 3, delete lines 1 through 25.

Page 4, between lines 9 and 10, begin a new paragraph and insert:

"SECTION 2. IC 9-30-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) A person who tampers with an ignition interlock device for the purpose of:

- (1) circumventing the ignition interlock device; or
- (2) rendering the ignition interlock device inaccurate or inoperative;

commits a Class B ~~infraction~~ **misdemeanor**.

(b) A person who solicits another person to:

- (1) blow into an ignition interlock device; or
- (2) start a motor vehicle equipped with an ignition interlock device;

for the purpose of providing an operable vehicle to a person who is restricted to driving a vehicle with the ignition interlock device commits a Class C infraction."

Page 4, line 25, delete "If:".

Page 4, delete lines 26 through 34.

Page 4, line 35, delete "(d)".

Page 4, delete lines 41 through 42.

Page 5, delete line 1.

Page 5, line 2, delete "the court enters the order."

Page 5, line 6, reset in roman "may".

Page 5, line 6, delete "shall".

Page 5, line 11, reset in roman "(d)".

Page 5, line 11, delete "(e)".

Page 5, line 16, delete "The court shall order that each motor vehicle".

Page 5, delete lines 17 through 18.

Page 5, line 19, delete "days after the date the court enters the order."

Page 5, line 28, reset in roman "(e)".

Page 5, line 28, delete "(f)".

Page 5, line 36, reset in roman "(f)".

Page 5, line 36, delete "(g)".

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Page 7, between lines 23 and 24, begin a new paragraph and insert:
 "SECTION 4. IC 9-30-5-16 IS AMENDED TO READ AS
 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 16. (a) Except as
 provided in subsection (b), the court may, in granting probationary
 driving privileges under this chapter, also order that the probationary
 driving privileges include the requirement that a person may not
 operate a motor vehicle unless the vehicle is equipped with a
 functioning certified ignition interlock device under IC 9-30-8.

(b) **The court shall order that a person convicted under section 3 of this chapter may not operate a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device.**

(c) A court may not order the installation of an ignition interlock device on a vehicle operated by an employee to whom any of the following apply:

- (1) Has been convicted of violating ~~IC 9-30-5-1 or IC 9-30-5-2~~
section 1 or 2 of this chapter.
- (2) Is employed as the operator of a vehicle owned, leased, or provided by the employee's employer.
- (3) Is subject to a labor agreement that prohibits an employee who is convicted of an alcohol related offense from operating the employer's vehicle."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1232 as introduced.)

LAWSON L, Chair

Committee Vote: yeas 11, nays 1.

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